

COMMITTEE REPORT

Committee: East Area
Date: 11 June 2009

Ward: Heslington
Parish: Heslington Parish Council

Reference: 09/00480/FULM
Application at: Pool Bridge Farm Wheldrake Lane Crockey Hill York YO19 4SQ
For: Creation of new fishing pond (retrospective)
By: Messrs M, S, A And R Fletcher
Application Type: Major Full Application (13 weeks)
Target Date: 17 June 2009

1.0 PROPOSAL

1.1 The application site lies within 138 acres of land known as Pool Bridge Farm which is located off Wheldrake Lane. It is situated within the York Green Belt adjacent to an area of land designated as SSSI (Site of Special Scientific Interest). The application site area is 2.5 hectares.

1.2 Part of Pool Bridge Farm is used to provide recreational fishing to the public on a commercial basis, part for the stationing of 7 touring caravans in addition to a 'Certificated Site' used for up to 5 caravans, and the remainder in agricultural use. Certificated caravan sites are sites which are approved by an exempted organisation for use by not more than 5 caravans. Such sites are outside planning control by virtue of Part 5, Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995 and Section 2, Schedule 1 of the Caravan Sites and Control of Development Act 1960.

1.3 Access to the site is through a private track off Wheldrake Lane. The total parking capacity on site is for approximately 120 vehicles.

PROPOSAL DESCRIPTION

1.4 This is a retrospective planning application to create a new recreational fishing pond. Like the existing four ponds, the new pond would also be open to the public on a commercial basis. The pond has a maximum radius of 100.0m (approx), which means its overall area is approximately 31,400sq.m. The submitted plans show the depth of the pond is 2.0m. A large peninsula has also been constructed, jutting out into the centre of the lake. This would be the only area within the new development where fishing can take place. The water margin around the pond will not be used by anglers.

RELEVANT SITE HISTORY

1.5 09/00179/CLU: Certificate of Lawful Development for the stationing of touring caravans for occasional or holiday occupation. Date of issue: 30 March 2009.

1.6 09/00215/CLU: Certificate of Lawful Development for the use of four ponds and adjoining land for recreational fishing and ancillary facilities. Date of issue: 31 March 2009.

2.0 POLICY CONTEXT

2.1 Development Plan Allocation:

City Boundary : York City Boundary 0001

DC Area Teams : East Area (1) 0003

2.2 Policies:

CYGP1
Design

CYGP4A
Sustainability

CYGP9
Landscaping

CYGP15
Protection from flooding

CYNE3
Water protection

CYNE4A
International and National Nature Conservation Sites

CYNE7
Habitat protection and creation

CYGB1
Development within the Green Belt

CYGB13
Sports facilities outside settlements

CYL1A
Sites for Leisure development

CYV1
Criteria for visitor related devt

3.0 CONSULTATIONS

INTERNAL

3.1 Highway Network Management team. Latest response received 11 May 2009:

- Pool Bridge Farm was, until earlier this year, classed in basic terms as a farm with four fishing lakes, two touring caravan uses and a café, all of which have been developed over the years without being challenged. These additional uses have resulted in up to 150 anglers using the site on occasions. These uses have all been ratified recently by the successful submission of Certificate of Lawful Use Applications (ref. nos.: 09/00179/CLU and 09/00215/CLU).

- It is understood that these applications only consider whether the uses have been carried out over a minimum continuous qualifying period and what might be considered as "normal" highway considerations are not normally taken into account. Hence the highway authority was not consulted in this matter and both applications were subsequently approved.

- This current application is for yet another lake, larger than any other of the existing lakes, and would normally and logically entail a further increase in patronage of the site; subsequently the highways authority objected to the application as the access suffers from potentially dangerous sub-standard visibility at its junction with the public highway and it was considered that this application would result in the intensified use of a sub-standard access.

- The applicant, however, maintains that due to a difference in the type of angling that this fifth lake would involve, and that the applicant is prepared to have the whole site restricted to a total of 116 anglers, the number of anglers overall would be reduced. It is understood that a condition restricting anglers is both meaningful and enforceable.

- On the understanding that the restrictive condition suggested by the applicant is applied to any permission granted, the previous recommendation of refusal has now been withdrawn.

- Upon further research it is also noted that there have been no reported accidents at the access point in the past five years.

- Condition and informative recommended.

3.2 Environmental Protection Unit. Response received 16 April 2009 - no objections.

3.3 York Drainage Consultancy. Response received 23 April 2009 - no objections, although the Ouse and Derwent Internal Drainage Board and Environment Agency should be consulted.

3.4 Environment and Conservation (Countryside). Response received 27 April 2009:

- The main matters of consideration are the nature conservation interest of the proposals and their possible impact on the adjacent Tilmire SSSI.
- With regard to the adjacent Tilmire SSSI, its interest is as an example of wet, neutral to acidic grassland of benefit both for its flora and the associated birdlife. The excavation of a new pond adjacent to the site will not have any significant impact on this interest;
- the heavy clays on which the pond is situated do not provide substantial lateral water movement and so will not affect the water table which would normally be the main problem;
- it is highly likely that the interest of the Tilmire SSSI will be enhanced by the proposal through the creation of the new water body which will provide new habitat that will benefit and compliment that on the Tilmire, even if it is used for fishing.
- The proposal as it stands is for a limited increase in fishing but from controlled points, with large areas of bank being left undisturbed and therefore available for wildlife and birds. That and the proposed management of the surrounding area will benefit nature conservation and thus comply with and help sustain the Council's biodiversity policies.
- As such there is no objection in nature conservation terms to the proposal and would actually endorse them as being of considerable benefit to wildlife.
- Natural England have also confirmed that they have no objection to the scheme and do not consider that there will be any impact on the adjacent SSSI.

EXTERNAL

3.5 Heslington Parish Council consulted. Consultation expired 20 April 2009 - no response received.

3.6 Foss Internal Drainage Board. Response received 6 April 2009:

- the site of the development lies within the Drainage Board's area, Tilmire Drain, which is adjacent to the site and is a Board maintained watercourse;
- the Board's prior consent is required for any development including fences or planting within 9m of the bank top of any watercourse within or forming the boundary of the site;
- any proposal to culvert, bridge, fill in or make discharge to the watercourse will also require the Board's prior consent;
- Condition recommended.

3.7 Ouse and Derwent Internal Drainage Board - Consultation expired on 15 May 2009. No response received.

3.8 Natural England. Response received 17 April 2009:

- Natural England is pleased that the City Council is seeking specialist input to help inform the decision-making process;
- Natural England should be consulted in cases where protected species are present and are likely to be harmed by a proposed development. In any case the City of York

Council is expected to arrived at this conclusion following consultation with its own Conservation team.

- The development is outside, but near the Heslington Tilmire SSSI. As such initial advice should be obtained from the Council's Conservation officer Bob Missin on whether the proposed creation of the new fishing pond is likely to have an adverse impact on the integrity of the SSSI. If any adverse impacts are identified, this would trigger the need for a consultation with Natural England.

3.9 Environment Agency. Response received 17 April 2009 - no objections.

3.10 Neighbours notified, site notice posted and press advertised. Consultation expired 29 April 2009 - no response received.

4.0 APPRAISAL

4.1 The main issues to be considered are as follows:

- i. Leisure Development in the Green Belt
- ii. Nature conservation and the need for Environmental Impact Assessment
- iii. Design, appearance and sustainability
- iv. Parking and highway safety,
- v. Residential Amenity
- vi. Other material considerations

LEISURE DEVELOPMENT IN THE GREEN BELT

4.2 The proposed scheme is outside the settlement limits within York Green Belt. It is to provide an additional fishing pond to the four ponds already in existence for the purpose of recreational fishing. Whilst the new pond covers a site area of 2.5 hectares the highest point of the development (namely the manmade peninsula jutting out into the centre of the pond) does not exceed 3.0m above ground level. This would be covered in grass and would thus blend in with the surrounding landscape. Through utilising the existing facilities the proposed development does not require additional structures to be created within the Green Belt. As such the scheme proposed would not detract the openness of the Green Belt and would not conflict with the purposes of including land within the Green Belt. It is also considered to be an appropriate use of land within the Green Belt, as defined within Planning Policy Guidance Note 2 "Green Belts". Furthermore, the new pond would complement and support the existing leisure and recreational activities which were the subject of lawful certificates granted early this year (ref. nos.: 09/00179/CLU and 09/00215/CLU).

4.3 In term of the need for an additional pond, the Fisheries Valuation report prepared by an independent Aquatic Biological Consultant has suggested, based on the information obtained during a site visit, that the enterprise as a whole is financially viable, so much so that on several occasions during the summer months, the fisheries were full to capacity and anglers had to be turned away. In the light of the supporting evidence submitted the report concludes that the need for a new pond is financially justified. It is also considered that the new pond would strengthen the

existing business by way of farm diversification and would improve the prosperity of York's tourism industry, which in turn would strengthen the City's economy. Hence it is considered that the scheme accords with policy E7 of Regional Spatial Strategy Yorkshire and Humber 2008, paragraph 30 of the national Planning Policy Statement no.7 "Sustainable Development in Rural Areas" (2004), and policy L1a of the City of York Draft Local Plan 2005.

4.4 No floor space would be created by virtue of the development proposed. Therefore policy SP7a "The Sequential Approach to Development" of the Draft Local Plan 2005 is not considered to be applicable to this proposal.

NATURE CONSERVATION AND THE NEED FOR ENVIRONMENTAL IMPACT ASSESSMENT

4.5 The application site is adjacent to Tilmire SSSI, which is designated as a site of special scientific interest because of its wet and neutral to acidic grassland which benefits both its flora and the associated birdlife. It is considered by the Council's Countryside Officer that the excavation of a new pond adjacent to the site will not have any significant impact on this interest. Furthermore the heavy clays on which the pond is situated do not provide substantial lateral water movement and so will not affect the water table of the area. On the contrary, it is likely that the interest of the Tilmire SSSI will be enhanced by the proposal through the creation of the new water body which will provide new habitat that will benefit and compliment that on the Tilmire, even if it is used for fishing. In addition, large areas of the bank will be left undisturbed and would therefore be available for wildlife and birds.

4.6 Overall the scheme would benefit nature conservation and thus comply with and help sustain the Council's biodiversity policies. No objection have been raised by both the Conservation team and Natural England.

4.7 Having established that the scheme would not create a significant adverse effect on the environmental and the adjoining SSSI, and that it does not fall within the definition of "Schedule 1" and "Schedule 2" development as defined under Part 7, Schedule 2 of the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999, an Environmental Impact Assessment is not required.

DESIGN, APPEARANCE AND SUSTAINABILITY

4.8 The information submitted states that the new pond has been designed to create maximum undisturbed water's edge, which would in turn maximise the habitat for Water Voles and increase their overall numbers. Shallower areas near the bank side have also been created to provide ideal habitat for plants, insects, amphibians and many other types of aqua culture.

4.9 By restricting the fishing points to the centre of the pond, the proposal would protect the banks from disturbance. This will maximise the wildlife potential of the entire area.

4.10 Soft landscaping would be provided around the edges of the pond. In addition, the manmade peninsula, together with any other disturbed areas within the application site would be sufficiently landscaped to ensure the scheme blends in harmoniously with the wider countryside (see condition 5). Whilst this is regarded as large scale development by virtue of its site area, subject to the recommended conditions it is considered that the new pond would respect and enhance the rural environment.

4.11 In addition to the above, the sustainability statement submitted as part of this application further states that the proposal would help to strengthen an existing rural business which has been developed by way of farm diversification and so maintain employment and economic prosperity locally. Whilst the scheme is located outside a built up area, it is situated within an established recreational fishing facility, which means that subject to a recommended condition designed to control the intensification of the angling activities (condition 3), the creation of an additional pond would not necessarily increase the number of car journeys to the site. Hence in accordance with policy GP4a of the City of York Draft Local Plan 2005 it is considered that the principles of sustainable development relevant to the development proposal have been taken into account.

PARKING AND HIGHWAY SAFETY

4.12 Access to the site from Wheldrake Lane is not considered wide enough to permit the simultaneous passage of cars and caravans or agricultural vehicles at its junction with Wheldrake Lane. Furthermore, access to the site at its junction with Wheldrake Lane suffers from substandard visibility in a westerly direction. As it was thought that the creation of the new pond would intensify the use of an existing substandard access objections were initially raised by Highway Network Management on highway safety reasons.

4.13 In raising the objection, it is acknowledged by highways officers that irrespective of any shortcomings, the access currently serves all the lawful uses on site, these include the dwelling, the certificated caravan site, the caravan site subject to the recent Certificate of Lawfulness (09/00179/CLU) and the recently certified use of the four existing ponds (09/00215/CLU). Therefore the shortcomings of the access would only constitute grounds for refusal if the new pond would lead to an intensification of its current usage.

4.14 However, the applicant contends that the new pond would not intensify the use of a substandard access and the site as a whole. The supporting information submitted with the application states that the new pond will be specifically designed for specimen anglers and will accommodate a maximum of 22 anglers. Comparing this with coarse fishing where tens of thousands of fish would be needed to accommodate nearly 100 anglers, specimen angling is a lot less intensive both in terms of the number of anglers fishing the pond and the number of fish in the pond. Thus converting the existing ponds to specimen angling would reduce the overall number of anglers and visitors at the site, such that the creation of a new pond can be achieved without necessarily increasing the overall intensity of the existing lawful operation.

4.15 To ensure that this benefit is achieved a condition has been recommended to restrict both the total number of fishing points on all five ponds and the number of anglers fishing these five ponds at any one time (condition 3). It is considered that such a condition would meet the six tests set out in Circular 11/95, in that it is reasonable, necessary, precise, relevant to planning and relevant to the development to be permitted. In terms of the sixth test 'enforceability', upon further discussion with the Enforcement Officer it is considered that such a condition is enforceable. The applicant, his agent, and the Highway Network Management team are also prepared to accept such a condition.

4.16 According to the submitted information the existing four ponds have, in the past involved up to 150 pegs (fishing points). The applicant, his agent, and Highway Network Management are prepared to restrict the total number of pegs on the 5 ponds (4 existing and the new pond) to 116. Such a restriction would be incorporated as part of condition 3. Provided that such a condition is imposed the Highway Network Management team have confirmed the withdrawal of their initial objections. In arriving to this decision officers have also noted that there have been no reported accidents at the access points in the past five years.

RESIDENTIAL AMENITY

4.17 The new pond is approximately 320m away from the two residential properties nearby (South View and Lockwood House), although access into the site from Wheldrake Lane is approximately 40m away from these residential properties. In view of the fact that this application, if approved, would be likely to reduce the intensity of fishing activities and the number of anglers visiting the site, it is not considered that the amenity and living conditions would be harmed by the proposal.

OTHER MATERIAL CONSIDERATIONS

4.18 FLOOD RISK AND DRAINAGE: The development is situated within high risk Flood Zone 3. Nevertheless due to the nature of the development proposal no objections have been raised by the Environment Agency and York Drainage Consultancy. Foss Internal Drainage Board have raised no objection. Nevertheless as the site lies within the Drainage Board's area and Tilmire Drain is a Board maintained watercourse new buildings and structures to be erected within a defined area outside the application site should be restricted. An informative advising the applicant to comply with the Board's requirements has been recommended (Informative no.3).

4.19 ENVIRONMENTAL PROTECTION: No objections have been raised by Environmental Protection Unit.

4.20 Having taken the above into account, it is considered that the proposed development would not cause undue harm to the main issues identified. As such the proposal complies with national advice contained within Planning Policy Guidance Note 2 "Green Belts", Planning Policy Statement (PPS) no.7 "Sustainable Development in Rural Areas", PPS 1 "Delivering Sustainable Development", PPS 9 "Biodiversity and Geological Conservation" and the policies set out in Regional

Spatial Strategy for Yorkshire and Humber 2008 and the City of York Draft Local Plan 2005.

5.0 CONCLUSION

By virtue of the above this application is recommended for approval.

6.0 RECOMMENDATION: Approve

1 TIME2 Development start within three years

2 The development hereby permitted shall be carried out only in accordance with the following plans:

Drawings received by City of York Council 17 March 2009

or any plans or details subsequently agreed in writing by the Local Planning Authority as amendment to the approved plans.

Reason: For the avoidance of doubt and to ensure that the development is carried out only as approved by the Local Planning Authority.

3 The total number of fishing points on and around ponds numbers 1, 2, 3, 4 and 5 as shown on the plan attached shall not, at any time exceed 116 and the total number of anglers or any other form of visitors fishing and using the five ponds as shown on the plan attached shall not exceed a total of 116 at any one time unless otherwise agreed in writing by the Local Planning authority.

Reason: In the interest of highway safety and safeguarding the amenity of the nearby residents.

4 The development hereby approved shall not be used until there has been submitted and approved in writing by the Local Planning Authority a detailed landscaping scheme which shall illustrate the number, species, height and position of trees and shrubs. This scheme shall be implemented within a period of six months of the completion of the development. Any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless alternatives are agreed in writing by the Local Planning Authority.

Reason: So that the Local Planning Authority may be satisfied with the variety, suitability and disposition of species within the site.

7.0 INFORMATIVES:

Notes to Applicant

1. REASON FOR APPROVAL

In the opinion of the Local Planning Authority the proposal, subject to the conditions listed above, would not cause undue harm to interests of acknowledged importance, with particular reference to:

- Leisure Development in the Green Belt;
- Nature conservation and the need for Environmental Impact Assessment;
- Design and appearance;
- Parking and highway safety;
- Residential Amenity;
- Sustainability;
- Flood Risk and Drainage; and
- Environmental Protection.

As such the proposal complies with Planning Policy Guidance 2 "Green Belts", Planning Policies Statement (PPS) no.7 "Sustainable Development in Rural Areas", PPS 1 "Delivering Sustainable Development", PPS 9 "Biodiversity and Geological Conservation", Policies Y1, ENV7 and E7 of the Regional Spatial Strategy for Yorkshire and the Humber (2008) and Policies GP1, GP4A, GP9, GP15, NE3, NE4a, NE7, GB1, GB13, L1A and V1 of the City of York Local Plan Deposit Draft 2005.

2. The applicant is reminded that under Section 85 of the Water Resources Act 1991, it is an offence to cause or knowingly permit poisonous, noxious or polluting matter to enter controlled waters unless the person(s) doing so are in possession of a discharge consent or other relevant permit. Controlled waters include all water below the surface of the ground. This legislation is not restricted to any listed substances. Discharge consents issued under the Water Resources Act 1991 constitute authorisation for the purpose of the Groundwater Regulations provided the relevant conditions have been applied.

3. The applicant is reminded that a strip of land 9 metres wide adjacent to the top of the banks of all watercourses on site should be kept clear of all planting and developments including buildings, structures, gates, walls, fences and other means of enclosure unless consent from the Foss Internal Drainage Board has been obtained prior to the commencement of development. Access arrangements should also be agreed with the Internal Drainage Board.

4. The applicant is reminded that the access to the site carries a public bridleway (Heslington No 14) and it should not be obstructed nor its surface damaged as a consequence of this development. For any additional advice in this matter the applicant should contact Mrs A Newbould (PRoW officer)- 01904 55148.

Contact details:

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